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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,795	06/06/2006	Hiroshi Kubo	8003-1039	4002
<div>465 7590 04/17/2009 YOUNG &amp; THOMPSON 209 Madison Street Suite 500 ALEXANDRIA, VA 22314</div>			<div>EXAMINER O HERN, BRENT T</div>	
			ART UNIT	PAPER NUMBER
			1794	
			MAIL DATE	DELIVERY MODE
			04/17/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/550,795

**Applicant(s)**

KUBO ET AL.

**Examiner**

Brent T. O'Hern

**Art Unit**

1794

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 and 10-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 10-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/5508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claims*

1. Claims 1-7 and 10-12 are pending.

## NEW REJECTIONS

2. All rejections are repeated for the reasons of record in the Office action mailed 10/14/2008. The rejections are repeated below for convenience.

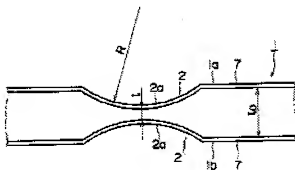
### ***Claim Rejections - 35 USC § 103***

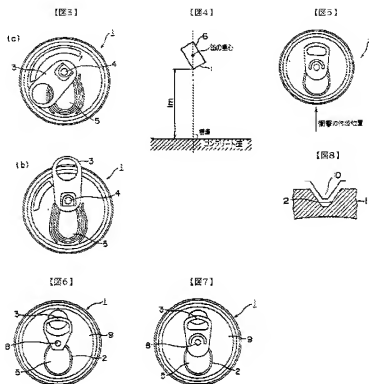
3. Claims 1-7 and 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Okamura et al. (US 5,900,325) in view of Yamanaka et al. (JP 200318734) and Iwasha et al. (JP 200158588).

Okamura ('325) teaches an easy open end comprising a polyester resin film being a mixture of polyethylene terephthalate and polybutylene terephthalate, having about 5 minutes or shorter half crystallization time and at thicknesses from about 10 to about 30  $\mu\text{m}$  on at least one side of a steel sheet, having a cross sectional shape with curvatures from about 0.1 to about 1 mm (*See col. 5, l. 31 to col. 6, l. 24, col. 8, ll. 38-48, col. 10, ll. 26-33, col. 14, ll. 21-36. Furthermore, the crystallization time includes zero, thus, non limiting.*), however, fails to expressly disclose a 0.04 or smaller plane orientation coefficient, a tear off groove, the polyester being a copolyester resin, a polymer from the group consisting of ethylene glycol and butylene glycol with at least one dicarboxylic acid selected from the group consisting of terephthalic acid and isophthalic acid, wherein the polyester resin is a copolyester in which about 94 to about 98% by mole of a polybasic acid components being a terephthaloyl component.

Yamanaka ('734) teaches a co-polyester coated steel can lid with a radius of curvature of 0.1 to 1.0 mm having the above thickness, a tear-off groove with the coating being made of dicarboxylic acids, terephthalic acid, ethylene glycol, polyethylene terephthalate and polybutylene terephthalate (See *paras.* 23, 28, 47-50 and *Drawings* 2-6, coated metal can top #1, with polyester film #7, openings #2 and #5.) for the purpose of preventing corrosive deterioration of the metal can lid (See *paras.* 11, 74 and *Abstract.*).

【図2】





Iwasha ('588) teaches co-polyesters made from ethylene glycol, dicarboxylic acids, isophthalic acid ethylene glycol, polyethylene terephthalate and polybutylene terephthalate with a coated metal can lid with a plane orientation coefficient of less than or equal to 0.15 with the copolyester having about 94 to about 98% by mole of a polybasic acid component being a terephthaloyl component (*See para. 24 and Abstract. The plane orientation coefficient includes zero, thus, non limiting.*) for the purpose of providing a lid for a container that is strong, easy to make and an effectively bonded coating (*See paras. 1, 13-18, 24.*).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time Applicant's invention was made to modify Okamura's ('325) polyester

bonded lid with an effectively bonded polyester coated can lid that is resistant to corrosion and degradation as taught by Yamanaka ('734) and Iwasha ('588).

#### **ANSWERS TO APPLICANT'S ARGUMENTS**

4. In response to Applicant's arguments (*See p. 5, para. 6, of Applicant's Paper filed 3/16/2009.*) that plane orientation and half crystallization depend on the method of manufacturing an end, it is noted that Applicant's invention is interpreted as being directed towards an end not towards a method of making an end. The claims do not set forth product by process limitations with any particular product limitations that are created by any particular process. Additionally, since no minimum values are set forth for the plane orientation and half crystallization, said parameters include values of zero, thus, not limiting.
5. In response to Applicant's arguments (*See p. 6, para. 3, of Applicant's Paper filed 3/16/2009.*) that Iwasa ('588) does not teach the half crystallization time, it is noted that the Examiner does not cite Iwasa ('588) for teaching such but rather Okamura ('325) which Applicant does not precisely rebut.
6. In response to Applicant's arguments (*See p. 6, para. 4, of Applicant's Paper filed 3/16/2009.*) that Yamanaka ('734) does not teach the half crystallization time and orientation coefficient, it is noted that the Examiner does not cite Yamanaka ('734) for teaching such but rather Okamura ('325) and Iwasa ('588).
7. In response to Applicant's conclusion (*See p. 6, para. 6, of Applicant's Paper filed 3/16/2009.*) that there is not motivation to combine Yamanaka ('734), Okamura

('325) and Iwasa ('588), it is noted that Applicant does not set forth any precise analysis to support said conclusions.

8. In response to Applicant's arguments (*See p. 6, para. 7 to p. 7, para. 2 of Applicant's Paper filed 3/16/2009.*) that Iwasa ('588) does not teach the orientation coefficient because lamination reduces the value, it is noted that Applicant's arguments do not make sense because even if the orientation coefficient decreases it is still below 0.15 which still satisfies the limitations of the claims.

9. In response to Applicant's arguments (*See p. 7, paras. 3-4 and p. 5, para. 6 of Applicant's Paper filed 3/16/2009.*) that the teachings are not obvious because the properties depend on the method of forming and one can not look to more than one reference for said teachings, it is firstly noted that Applicant is arguing about the non limiting plane orientation coefficient. Furthermore, arguing that one must look to just one reference is not proper as that would make 35 USC 103 meaningless.

**10. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brent T. O'Hern whose telephone number is (571)272-0496. The examiner can normally be reached on Monday-Thursday, 9:00-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Sample can be reached on (571) 272-1376. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/BTO/  
Brent T. O'Hern  
Examiner  
Art Unit 1794  
April 15, 2009

/Elizabeth M. Cole/  
Primary Examiner, Art Unit 1794